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Paper No. 10

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MAY 20 2002

In re Application of
DeMasi
Application No. 09/845,999
filed: September 24, 2001
FOR: UNIVERSAL FLYING HAWK

OFFICE OF PETITIONS

DECISION GRANTING PETITION

This is a decision on the renewed petition, filed on February 21, 2002 (Certificate of Mailing date November 16, 2001), requesting that the above-identified application be accorded a filing date of September 24, 2001.

The petition is **GRANTED**.

This application is a continuation-in-part application (CIP) of application No. 09/313,566. The prosecution history pertinent to this decision is summarized below:

4/30/01: Application deposited without a specification as required by the first paragraph of 35 U.S.C. 112; the accompanying preliminary amendment contains neither sufficient information to be construed as such a specification, nor a proper incorporation by reference of the specification and the drawings in the parent application;

6/25/01: Notice of Incomplete Nonprovisional Application; filing date not accorded;

7/30/01: Petition under 37 CFR 1.53(e) filed, requesting a 4/30/01 filing date for this application;

9/19/01: Second Preliminary Amendment filed;¹

9/24/01: Third Preliminary Amendment filed;

10/17/01: 7/30/01 petition dismissed.²

The 9/24/01 Third Preliminary Amendment specifically incorporates the disclosures in the parent application by reference, rendering the application eligible for, and entitled to, the requested 9/24/01 filing date. The petition is thus granted.

The petition also encloses a copy of the specification (4 pages including 22 claims) and drawings (1 sheet with 4 figures) from the parent application, No. 09/313,566; and a Declaration executed

¹ This amendment does not properly incorporate by reference the disclosures in the parent application.

² See Paper No. 8.

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by the sole inventor on 11/25/01, subsequent to the 9/24/01 Third Preliminary Amendment.³

Finally, the \$130 received with the instant petition has been applied toward the \$65 surcharge (small entity) for late filing of the newly executed Declaration.⁴ The overpayment of \$65 has been refunded.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of September 24, 2001, using the application papers deposited on April 30, 2001 and supplemented with: the preliminary amendments filed on April 30, 2001, September 19, 2001, and September 24, 2001; and the specification and 1-sheet of drawings submitted with the instant petition.⁵ A filing receipt will also be issued by OIPE. Thereafter, the application will be forwarded to the appropriate Technology Center for examination in due course.

Telephone inquiries concerning this decision should be directed to Petitions Attorney RC Tang at (703) 308-0763.



Beverly M. Flanagan
Supervisory Petitions Attorney
Office of Petitions
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for Patent Examination Policy

³ This Declaration refers to the instant application and the 9/24/01 filing date.

⁴ The check was intended for paying the petition fee. However, a renewed petition under 37 CFR 1.53(e) does not incur a fee.

⁵ Subject to verification by the examiner that the 2/21/02 specification and drawings do not contain new matter in relation to the disclosures made in this application up to and including 9/24/01.

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